CHAPTER 15

# Affordable Housing Programs

## Introduction

The volume of assets handled within the affordable housing programs of the Resolution Trust Corporation (RTC) and Federal Deposit Insurance Corporation (FDIC) were relatively minor compared to the total assets sold by both corporations. For the period of 1980 through 1994, in fact, less than one-half of 1 percent of the total assets liquidated were disposed of in the affordable housing programs. The RTC and FDIC viewed the programs as significant, however, because of their mission to provide low- to moderate-income housing within a larger program designed to minimize costs and maximize overall returns. Affordable housing was considered an area in which the nation could glean social benefit from the financial crisis by providing an opportunity for low- to moderate-income households to realize their dream of home ownership or to improve their standard of living at affordable rent levels.

Virtually overnight the RTC became accountable for the disposition of thousands of properties through its Affordable Housing Disposition Program (AHDP). With the exception of the Farmers Home Administration (FmHA), no federal agency holding foreclosed real estate had ever targeted such a volume of property for an affordable housing program. To reach its goals the RTC implemented many innovative strategies, such as coordinating target marketing with a vigorous seller financing program geared to low- to moderate-income buyers, nonprofit organizations, and public agencies. During its life, the RTC sold 81,156 units of multi-family properties and 27,985 units of single-family properties to low- to moderate-income and very-low-income families, or sold them for the benefit of those families.

As part of the Federal Deposit Insurance Corporation Improvement Act (FDICIA) of 1991, Congress requires the asset disposition efforts of the FDIC to meet five criteria, one of which is to preserve affordable housing. Because the FDIC does not use public funds for its operations, it required a separate federal appropriation for an affordable housing program. The FDIC first received such public funding in fiscal year 1993; the funding continued for a three-year period.

The FDIC recognized that the large discount costs associated with placing multi-family properties through an affordable housing program would create a disproportionate drain on its limited appropriations. Therefore, the FDIC Affordable Housing Program (AHP) initially focused on the sale of eligible single-family properties to qualified families. As the amount of the annual appropriation increased, the FDIC, for a short while, also sold multi-family properties. Through its efforts, the FDIC's AHP placed 2,073 single-family properties with low- to moderate-income families and sold 18 multi-family properties, which included 533 units.

## RTC Affordable Housing Disposition Program

The RTC Affordable Housing Disposition Program was established by section 501 of the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) of 1989.[1] Regulations governing the AHDP were issued in April 1990, with the basic statutory obligation being to ensure the preservation of affordable housing by providing home ownership and maintaining rental opportunities for moderate-income, low-income, and very-low-income households. The two components of the AHDP were the Single-Family Program and the Multi-Family Program. In 1991, with the extensive amending of FIRREA by the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act (RTCRRIA), the RTC added condominium units to the AHDP and generally treated them as single-family properties.

The RTC classified households as low-income when their income did not exceed 80 percent of the area median income as established by the U.S. Department of Housing and Urban Development (HUD). For example, in Denver, Colorado, the income limit for a one-person household was $27,200, and the income limit for an eight-person household was $51,300. In Hartford, Connecticut, the income limit for one person was $28,150, and the income limit for an eight-person household was $53,050. The RTC classified very-low-income households as those with income that did not exceed 50 percent of the area median income as established by HUD. Rents that could be charged to those households were restricted according to a formula based on income figures for the area of the property.

1. Section 21A(c) of the Federal Home Loan Bank Act, as amended by section 501 of the Financial Institutions Reform, Recovery, and Enforcement Act, *U.S. Code*, volume 12, section 1441a (1989).

*Single-Family Program*

The Single-Family Program included properties that had four units or less and that fell within the valuation range specified in the statute. The valuation range varied, but in 1997 was $67,500 for a one-unit house and up to $107,000 for a four-unit property. Properties had to be sold to qualifying households whose members agreed to live in the property as their personal residence for at least one year. The properties also could have been sold in bulk to nonprofit corporations or public agencies that agreed to either rent to lower-income families (those earning no more than 80 percent of the median income for the area involved, adjusted for household size) or sell the properties to qualifying households whose members agreed to live in the properties for at least one year.

To be considered a qualifying household, the household had to have an income that was no more than 115 percent of the area median income as determined by HUD and adjusted for household size. An exception to that requirement, provided in the 1991 amendments, permitted the sale of a single-family property to a household that was renting the property at that time, regardless of income, provided the household members agreed to occupy the property as their residence for at least one year after purchase.

The program required potential purchasers to complete certifications of owner occupancy and of income eligibility, along with the purchase contract. At closing, the purchaser executed a land use restriction agreement (LURA). The LURA included an agreement stating that the new owner intended to occupy the property as a principal residence for one year following closing and that the RTC could recapture 75 percent of the profits if the new owner sold the property within that year. The special warranty deed given at closing referenced the LURA as follows: ". . . subject also to the covenants and restrictions set forth in the Land Use Restriction Agreement executed by [Grantor] and [Grantee] concurrently with this deed." Condominium properties had the same residency requirement and recapture provision as the single-family LURA.

When the RTC sold single-family or condominium properties to a nonprofit organization or public agency, the organization or agency also was encumbered with a LURA that imposed rental and resale restrictions. The RTC designed that LURA so it could be released as the organization or agency resold each individual unit, at which time that LURA was replaced by the standard single-family LURA described above.

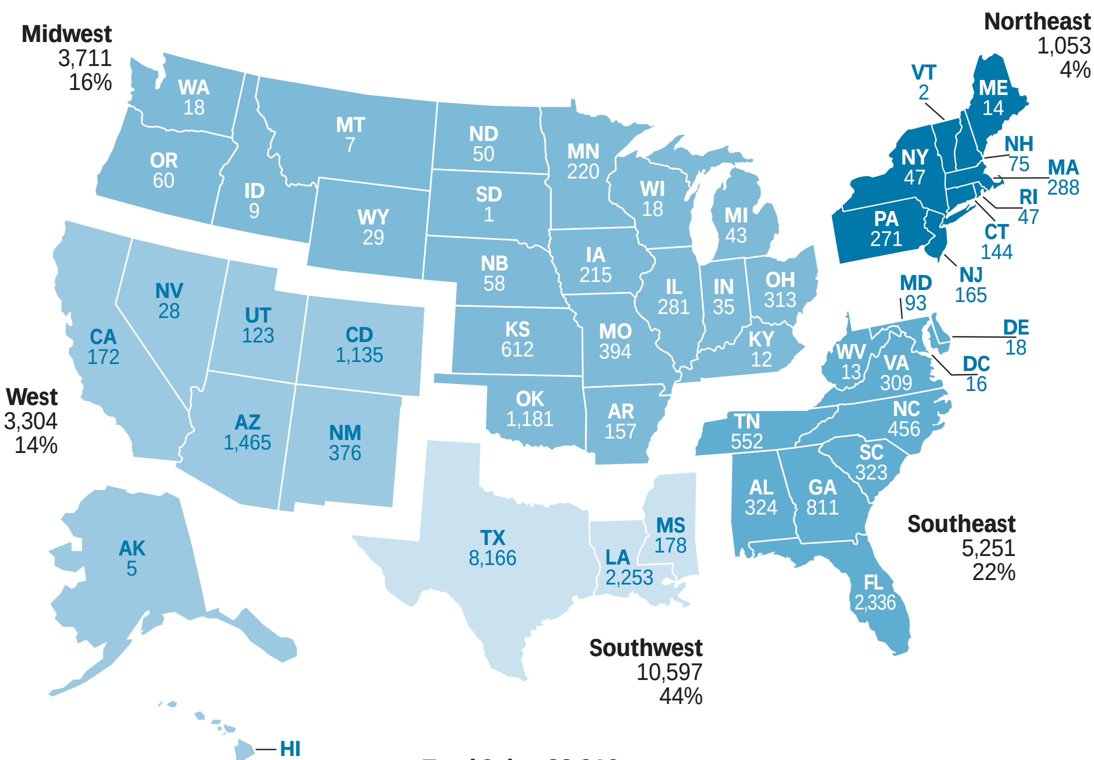
From the inception of the AHDP, the RTC sold single-family properties to numerous nonprofit organizations. Although a variety of organizations participated in the program, the majority tended to be local community-based organizations that specialized in providing home ownership opportunities for low-income families. Of all single-family assets sold through the program, 66 percent were in the southeastern and southwestern areas of the country. (See chart I.15-1.)

*Multi-Family Program*

Multi-family properties in the AHDP were those with five units or more that fell below the value periodically established by HUD. The LURA for a multi-family property restricted the property's use for 40 years from the date of closing or 50 years from initial occupancy, whichever time span was greater; during that time, at least 35 percent of the units had to be rented to lower-income households. At least 20 percent of the households residing in those properties had to be from very-low-income households. Purchasers of the RTC's multi-family properties often agreed to increase the percentage of income-restricted units, even though the RTC's goal always was to keep a balance of restricted and unrestricted income households in each property. The LURA was terminated when a property was foreclosed by an institutional lender that was not a party

**Chart I.15-1**

**The RTC's Affordable Housing Disposition Program Single-Family Properties Sold**




**Total Sales: 23,916**

*Source:* FDIC Division of Resolutions and Receiverships.

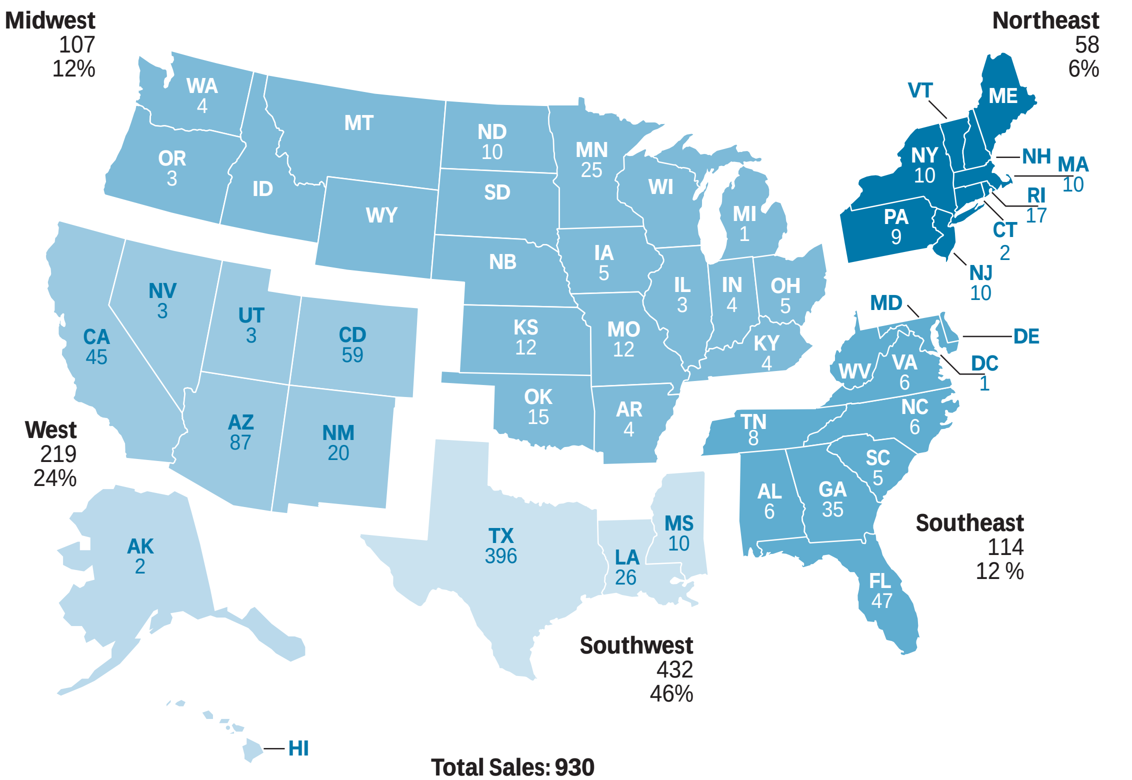
related to the borrower, as long as the foreclosed owner did not later acquire a controlling interest in the property. Of all multi-family assets sold, 70 percent were located in the southwestern and western areas of the country. (See chart I.15-2.)

## RTC Program Components

During the AHDP's five-year existence, the RTC developed many strategies for marketing affordable housing. Those strategies, discussed below, include using clearinghouses, retaining technical assistance advisers (TAAs), developing seller financing, establishing repair funding, developing a direct sale program, adjusting the value for a reduced

**Chart I.15-2**

**The RTC's Affordable Housing Disposition Program Multi-Family Properties Sold**




*Source:* FDIC Division of Resolutions and Receiverships.

price, developing a donation policy, establishing an exclusive marketing period, and using auctions and sealed bids.

### *Clearinghouses*

The RTC used state housing finance agencies and Federal Home Loan Banks (FHLBs) as clearinghouses for listing available affordable properties. The lists, which were free to the public, contained key property information, such as location, description, price, and the broker contact. The Housing Opportunity Hotline, which the RTC initiated in Texas for lower-priced, single-family foreclosed properties of eight federal agencies, also used the clearinghouses.

### *Technical Assistance Advisers*

The RTC retained community-based organizations as technical assistance advisers. They were nonprofit organizations or public agencies located in every state where the RTC owned property marketed under the AHDP. TAAs provided training and assistance for single-family purchasers, who were, for the most part, first-time home buyers. They also conducted training on how to buy a house, helped the buyers complete the income certifications required by the AHDP, and provided post-closing seminars on the homeowner's responsibilities, such as those related to maintenance, mortgage, and insurance.

The TAAs also played a significant role in the RTC's Multi-Family Program. They helped identify local nonprofit organizations and public agencies interested in owning multi-family properties. They brought to light for the RTC the fact that many local public-housing authorities had never considered expanding their programs to include low-income and moderate-income housing. TAAs helped those agencies and nonprofit organizations conduct feasibility analyses and also helped identify state and federal sources of acquisition and rehabilitation financing.

TAAs performed some of the services traditionally provided by brokers; that is, they brought buyers and sellers together. In addition, TAAs performed many innovative tasks that were essential if disenfranchised communities with serious housing problems were to benefit from the affordable housing properties. Among those innovative tasks was creating a targeted market for the sale of both single-family and multi-family properties.

### *Seller Financing*

Often, an RTC affordable property could not attract conventional financing because of the property's location, condition, and income history. In addition, many single-family buyers and nonprofit corporations eligible for the program could not qualify for acquisition financing with traditional lenders. Because of those financing limitations, the RTC developed a seller financing program for both single-family and multi-family properties.

The program offered 97 percent seller financing on single-family properties and 95 percent financing on multi-family properties sold to nonprofit organizations and public agencies. Loans totaling $170 million for 5,726 single-family purchases were made. In addition, the RTC paid the closing costs for its single-family buyers. The RTC also developed its own underwriting programs with less restrictive requirements than conventional underwriting. That underwriting program was particularly important for nonprofit borrowers because lenders generally view them as poor risks. When analyzing a multi-family loan application, the RTC's underwriters focused on the income potential of the property rather than the capital resources of the borrower.

Under its direct sale program (see details provided later in this chapter), the RTC also offered bridge loan financing to public agencies. That financing allowed a public agency to temporarily finance a property for a two-year period until the agency could locate a nonprofit corporation to purchase the property or arrange conventional financing to finalize its own purchase of the property. If financing was not available, the RTC could then provide permanent financing on more conventional terms. The RTC made 44 bridge loans to public agencies with an original balance of $58.6 million. The RTC also provided financing for capital improvements and operating expenses during the bridge loan period. As an incentive to find a nonprofit buyer, the public agency was eligible to receive 5 percent of the loan balance when the bridge loan was repaid.

Seller financing was important because much of the single-family inventory did not meet Federal Housing Administration (FHA) standards. Bridge loans were also instrumental in selling multi-family properties to nonprofit organizations and public agencies. The RTC provided seller financing for 25 percent of single-family properties and for 33 percent of multi-family properties sold. See table I.15-1 for the number of properties sold using RTC seller financing.

**Table I.15-1**

**RTC Seller Financing**

*($ in Thousands)*

| Type | No. of Properties | Sales Price | Loan Amount | Loan Amount/ Sales Price (%) |
|---|---|---|---|---|
| Single-Family | 5,726 | $183,814.2 | $170,153.5 | 92.6 |
| Multi-Family | 275 | 401,367.5 | 331,872.3 | 82.7 |
| Bridge Loans | 44 | 58,645.0 | 63,069.0 | 107.5 |
| **Totals** | **6,045** | **$643,826.7** | **$565,095.8** | **87.8** |

*Source*: RTC quarterly auction reports.

*Repair Funding*

A significant component of the Single-Family Program was its repair program. Properties sold to lower-income buyers had to be in good condition. Because the buyers would not have the reserve capital necessary for repairs, particularly at the time of closing or shortly thereafter, the RTC committed up to $5,000 to repair each property in its inventory.

*Direct Sale Program*

As the result of a legislative amendment, the normal clearinghouse marketing period designed to sell to the highest bidder was suspended, and the direct sale program started in May 1992. The program targeted sales of multi-family properties to nonprofit organizations and public agencies, which the RTC quickly discovered did not have sufficient capital to purchase those properties. Nor did they have the ability to mobilize quickly enough to be competitive with private investors. To level the playing field, the RTC offered two sequential exclusive 30-day marketing periods to public agencies and nonprofit organizations. If no public agency or nonprofit buyer emerged during that period, the RTC offered the properties to all qualified buyers.

The initial program offered eligible property to public agencies first, in a 30-day marketing period. The RTC defined “public agency” as a federal, state, or local governmental or public entity, including a public housing agency, with a jurisdiction to operate in the area where the property is located. Those agencies may have included local housing authorities, state and local housing finance authorities, community development agencies, state or local mental health or developmentally disabled agencies, school districts, or publicly chartered institutions of higher learning. The program also made special RTC bridge financing, with a low down payment, available to those agencies.

If no public agency expressed interest during the marketing period, then nonprofit organizations became eligible purchasers during an exclusive nonprofit 30-day marketing period. If, at the end of those marketing periods, neither a public agency nor a nonprofit organization expressed interest in purchasing the property, the RTC placed the property in the clearinghouse for 90 days for marketing to all qualified buyers who committed to the minimum set-aside requirements. If the property remained unsold after that period, the RTC could sell the property outside the AHDP.

To facilitate the noncompetitive approach, the RTC adopted a bidder evaluation process, in which it asked interested public agencies and nonprofit organizations to submit a notice of serious interest (NOSI). The RTC then evaluated the NOSIs for the applicants’ history of community service, history of property ownership and management, nonprofit and public agency legal status, and financing needs. After determining the organization with the highest overall score, the RTC proceeded to negotiate the sale of the property.

*Reduced Price*

For multi-family properties marketed after January 1994, the RTC set the actual purchase price at what was called the affordable market value (AMV). The AMV was calculated according to a standardized RTC methodology modeled on FHA underwriting guidelines. The RTC used the methodology to adjust the appraised value downward to reflect the (1) net affect on income of the required 35 percent low-income set-aside, (2) current and anticipated operating costs, (3) current interest rates and terms for RTC seller financing, and (4) current physical condition of the property based on a physical needs assessment and phase I environmental report. The AMV served as the sales price. Of the properties adjusted, the average AMV was 66.7 percent of appraised market value. Rather than seeking the highest bidder, the RTC sought a buyer with the capability to own and manage the low- and moderate-income property successfully. For single-family properties, initial guidelines required a sales price of 80 percent or greater of appraised value. In March 1991, Congress authorized the RTC to sell single-family properties with no minimum pricing to benefit more program-qualified households.

*Donation*

Because of the large inventory of assets with nominal value, especially in the southwestern area of the United States, the RTC developed a policy that allowed the donation of a property to a nonprofit organization or public agency, at no cost, providing the assets would be conveyed for the public good. Qualifying uses for such conveyances included single-family and multi-family affordable housing, homeless shelters, transitional housing, day care facilities for children of low- and moderate-income families, open urban spaces, and assets used for nonprofitable public purposes, as designated by the secretary of Housing and Urban Development.

More than 1,000 single-family and 73 multi-family assets were donated through that program. The RTC sometimes placed a demolition LURA on multi-family properties with the requirement that the recipient of the donation replace the structure with affordable housing.

*Exclusive Marketing*

Just as the exclusive marketing period under the direct sale program helped nonprofit organizations and public agencies that sought to purchase multi-family properties, an exclusive marketing period for single-family properties did the same for low-income households. Congress established a 90-day marketing period for single-family properties. During that period, the RTC listed the property in the clearinghouse and offered it exclusively to nonprofit organizations, public agencies, and income-qualified buyers. The 90-day marketing period gave the RTC's TAAs adequate time to locate qualified buyers, complete the paperwork establishing qualified buyer status, make an offer, and educate single-family buyers.

*Auctions and Sealed Bids*

To dispose of a large number of single-family properties, the RTC also used open outcry auction and sealed bid events as marketing techniques in the AHDP. More than 198 auctions or sealed bid events occurred between 1990 and 1995.

An article in a 1992 edition of the RTC's *The Silver Lining* illustrated the positive side of using open outcry auctions to dispose of single-family properties (see exhibit I.15-1); however, negatives also were associated with that method of selling to low-income families. One such negative was that although potential purchasers had the opportunity to view the property before the auction, some properties were sold sight unseen, without prior knowledge about the condition of the property. Also, at times, income certifications were not properly completed, and because of the fast pace of the auction, purchasers sometimes found themselves bidding more than the property's worth.

## Difficulties the RTC Faced

In its efforts to meet the strict requirements of FIRREA and other legislation, the RTC faced a number of difficulties. It had to establish guidelines for determining the nonprofit status of its applications and for verifying the intent of purchasers to occupy its single-family properties. In addition, the RTC had to deal with monitoring land use restrictions and in facing drawbacks arising from bulk sales of multi-family properties.

*Determination of Nonprofit Status*

FIRREA established its own criteria for determining nonprofit status rather than using the criteria established by the Internal Revenue Service (IRS). As a result, the RTC was involved in determining the validity of a nonprofit corporation's status under the RTC's statute, regardless of its status under the Internal Revenue Code. FIRREA defines a nonprofit as "a private organization (including a limited equity cooperative)—(i) no part of the net earnings of which inures to the benefit of any member, shareholder, founder, contributor, or individual; and (ii) that is approved by the Corporation [RTC] as to financial responsibility."

Early in the direct sale program, the RTC did not inquire into the nonprofit status of its applicants. It simply accepted a nonprofit corporation's own statement. However, it quickly became apparent that several organizations could not meet the RTC's definition of "nonprofit" because of their financial arrangements with officers and employees. As a result, the RTC developed a nonprofit certification requiring information on board members' compensation, property managers' compensation, and proposed financing arrangements. The certification requirements were based on IRS cases involving the validity of nonprofit status under the Internal Revenue Code section 501(c)(3). Although the certification was useful in providing additional information about the

**Exhibit I.15-1**

### Texas 'Lone Star' Sells 989 Properties: Biggest Affordable Auction Yet

Over 16,000 attended the largest RTC affordable housing auction ever, the Lone Star, running in nine Texas cities from November 10-19, 1991. The mammoth sale of 989 homes for $29.1 million revealed some encouraging trends for those seeking sorely needed low-income housing. Chief among these trends are the following:

- 35 percent of Texas buyers were minorities (18 percent Hispanic, 10 percent Black, 5 percent Asian).
- A majority, or 56 percent, of purchasers had low incomes (under 80 percent of the Texas area median income). The average household income was $22,902.
- 72 percent of buyers were first-time home buyers.
- Properties sold brought 77 percent of appraised value.

Average sales prices per city ranged from $44,100 in El Paso to $19,600 in Dallas. Average buyer income per city ranged from $25,100 in Houston to $19,600 in San Antonio. Corpus Christi had the highest percentage of buyers with incomes under $25,000—84 percent.

Some cities had extraordinary minority participation, such as El Paso, where 89 percent of the winning bidders were minorities, mostly Hispanic. Houston had 45 percent minority buyers, almost half of which were Black. Nearly all of San Antonio's minority purchasers (31 percent of total) were Hispanic.

Among those was Nery White, 27, a single-parent mother of two boys. White was going about her business installing a security system for a homeowner in San Antonio, Texas, when her clients happened to mention there was an RTC auction in town in one week. This wasn't the first time she'd heard about it. She got curious. And in one week, she got a condo for $6,000.

"I pay $500 a month in rent," she related after winning the bid at the RTC auction on November 16. "That's $6,000 a year. I just bought a condominium for the same amount I paid last year in rent. But now I have a home for life."

White was amazed. "I have struggled very hard on the edge, as a taxpayer. But it's gratifying. I really need it."

*Source:* RTC , newsletter, *The Silver Lining,* January-February 1992.

nonprofit buyers, it added an additional cost to the program because it required trained personnel to evaluate the information and obtain full completion of the certification.

*Single-Family Certificate of Intent to Occupy*

FIRREA required the purchasers of single-family properties to certify in writing that the family intended to occupy the property for at least one year. In addition, the family had to "intend" to occupy the eligible single-family property as a principal residence.

When developing its program documents, the RTC faithfully followed the language of the statute, not foreseeing that fraudulent buyers would purchase the property for investment purposes, immediately renting the property without ever having lived there themselves. The certification language, which required the purchasers to merely recite their intent to live in the property for one year, made it impossible to prosecute those buyers successfully.

Subsequently, the RTC revised its certification to include an acknowledgment that the buyer would occupy the property immediately after closing and that the new owner had a duty to amend or supplement the certification if there were any changes in occupancy. That revision significantly strengthened the RTC's position when prosecuting program fraud, because buyers who did not occupy the property after closing could not successfully argue that their intent had changed between the time the certification was executed and the closing.

Also, in contrast to its previous practice of relying on neighbors to call and report program violations, the RTC instituted a 90-day contact letter program. Under that program, 90 days after the closing date, the RTC sent a certified letter to the buyer at the property address asking the buyer to reaffirm the agreement to live in the property for one year. If the buyer did not return the requested reaffirmation within a certain time, or the certified mail was returned indicating the buyer did not live at that address, the RTC referred the matter to its Office of Inspector General (OIG) to determine if program fraud had been committed. When the OIG found a program violation, it referred the matter to the U.S. Department of Justice for civil or criminal prosecution.

*Incomplete Land Use Restriction Agreements*

Initially, the RTC had great difficulty monitoring its land use restriction agreements. Early in the program, with its primary focus on maximizing sales, the RTC had established no central collection point for LURAs. As a result, when the RTC later attempted to locate all LURAs to begin its monitoring and compliance program, it had difficulty locating the documents and had to recover them from individual property records. Furthermore, the RTC discovered that the portion of the LURA form stipulating the number of units restricted to lower-income and very-low-income tenants often had not been completed.

In addition, RTC policy permitted contractors that managed and sold properties on the RTC's behalf to close sales using standard documents, without submitting them for legal review. (For further information, see "Use of Contractors" in this chapter.) Although many of those contractors were licensed real estate brokers and agents, they had not been trained in the use of those documents. Many did not complete them properly or failed to get them signed or recorded.

To correct that problem, the RTC initiated a campaign to train the contractors involved in its program. Later, it began to assign only one contractor from each of the field offices to AHDP sales. That contractor was chosen on the basis of previous performance. Ultimately, however, the success of the program depended on the contractor's employees and their dedication to the AHDP.

*Aggregation of Units in Bulk Sales*

Although FIRREA permitted bulk sales of multi-family property with aggregation of all restricted units in one property, the RTC discovered drawbacks to that approach early in the program. The sale of 26 multi-family properties to the Transactions Funding Corporation was the initial event that kicked off a round of media attention and congressional hearings regarding the policy of bulk sales. (See exhibit I.15-2.) A key goal of the RTC's AHDP was that multi-family properties contain a balance of restricted and unrestricted income households. Some bulk purchasers, however, chose to aggregate units so that a single property was entirely rent-restricted, while their

**Exhibit I.15-2**

**RTC Closing Largest Affordable Housing Sale to Date—$75 Million**

The Resolution Trust Corporation has consummated the largest sale to date under its Affordable Housing Disposition Program. In November, the RTC sold 26 multi-family properties, located primarily in Texas, for approximately $75 million to Transactions Funding Corporation, Atlanta, Georgia, an affiliate of General Electric Capital Corporation, Stamford, Connecticut. The sale was an all-cash transaction, and was over five times as large as the former largest sale.

"This transaction proves that our program can offer a way for investors to pursue their profit-making objective, while at the same time participate in the effort to make affordable housing properties available," said Lamar Kelly, RTC deputy executive director for asset and real estate management.

*Source:* RTC, newsletter, *The Silver Lining*, January-February 1992.

other properties had no restrictions. Administration of the "aggregation" provision in that manner raised questions regarding the consistency of the approach with the statutory mandate that the RTC conduct operations in a way that "maximizes the preservation of the availability and affordability of residential real property for low- and moderate-income individuals." If only a portion of the properties marketed through the AHDP were actually subject to deed restrictions, then fewer properties were made available at restricted rents to low-income individuals.

In response, the RTC modified its policy. On June 12, 1992, the RTC initiated a policy that stated that when more than one multi-family property is purchased from the RTC as part of the same negotiation, the RTC will require that not fewer than 15 percent of the dwelling units in each separate property purchased be made available to low-income or very-low-income individuals.[2]

## Use of Asset Management Contractors

The results of initially using standard asset management and disposition agreement (SAMDA) contractors for the disposition of AHDP-qualified properties proved to be unacceptable. The SAMDA contractors had no financial incentives to market the properties as prescribed in the affordable housing regulations. Otherwise eligible properties would be pooled with higher valued, unqualified properties and marketed under standard procedures. Also, SAMDA pools often were not marketed by a SAMDA contractor in the geographic region of the affordable housing qualified properties.

Those difficulties were addressed by the RTC initiating standard asset management amendments (SAMAs).[3] The SAMAs focused the contractor's responsibilities on managing the properties, rather than on disposition of the properties. The responsibility for disposition shifted from the contractors to the RTC.

## Monitoring and Compliance Program

The scope of the initiatives the RTC implemented to meet the requirements of legislation required the development of a monitoring and compliance program.

2. "Final Statement on Policy on Lower Income Occupancy Requirements for Bulk Sales in the Multi-Family Affordable Housing Disposition," *Federal Register* [57 FR24937], August 11, 1992.

3. For further information, see Chapter 14, Asset Management Contracting.

*Land Use Restriction Agreements*

The land use restriction agreements recorded against multi-family properties and single-family properties, which were sold to nonprofit organizations or public agencies, were effective for the greater of 40 years from the date of closing or 50 years from the date of initial occupancy. Those LURAs imposed rent restrictions on a percentage of the property's units through the LURA's term. The RTC entered into memoranda of understanding with 32 state housing finance agencies and 2 nonprofit organizations that agreed to monitor compliance for the term of the LURAs.

As part of its monitoring and compliance program to inform and guide the monitoring agencies, the RTC produced the *Monitoring and Compliance Manual* for the state agencies and the property owners. The manual contained the necessary forms for reporting income and tenant information to the monitoring agency, although owners could also use RTC-developed computer software to file the required reports, which they had to submit monthly until the property reached full compliance. After the property achieved compliance, the property owner submitted the reports annually. They also paid required annual fees of $50 per rent-restricted, multi-family unit and $250 per single-family unit to cover monitoring program costs. Property owners could bring any questions or concerns regarding a LURA on any property to the monitoring agency. The RTC gave the monitoring agencies the authority to resolve questions about program enforcement, providing the agency did not contradict state statute or the LURA. It also gave the monitoring agencies the authority to adjust monitoring fees and to adopt their own penalties for noncompliance, free from the RTC's supervision. Those fees belonged to the agency and were its sole compensation for the monitoring service.

Under the terms of the loan documents, the LURAs on single-family properties sold to nonprofit corporations and public agencies terminated upon the subsequent sale of the single-family property or condominium to a qualified family. At that time, a new LURA was substituted, releasing the original LURA and imposing the RTC's one-year ownership and recapture requirements. If a new LURA was not executed, the original LURA would remain as the official record.

If an owner failed to comply with the LURA, the RTC or its monitoring agency might apply to a court for an injunction or the appointment of a receiver to operate the property. The terms of the LURA entitled the RTC or the agency to reimbursement of attorney's fees if it prevailed. Interestingly, both the statute and the LURAs gave affected very-low-income and lower-income families, state housing finance agencies, and any agency, corporation, or authority of the United States government the right to enforce the low-income occupancy requirements.

### *Recapture of Single-Family Sales Proceeds*

Under its LURA, the RTC was entitled to recover 75 percent of net profits if a single-family property was sold within one year of its purchase by a qualified buyer. The recapture provision also applied to condominiums. The provision was triggered if the sale contract was entered into during the year after the original closing, regardless of when the sale took place. The restriction continued to be used for the RTC single-family properties that were sold by the FDIC after the RTC was shut down. It was also used for single-family properties that were originally sold to nonprofit organizations or public agencies when the properties were resold to qualified buyers.

### *Recapture and Reinvestment of Profits Agreement*

Most multi-family properties sold after May 1992 were sold under the direct sale program. Those properties were subject to both a LURA and a recapture and reinvestment of profits agreement (recapture agreement). The recapture agreement entitled the RTC to 50 percent of the net profits from any sale occurring within two years after purchase from the RTC. In addition, if the original owner was a nonprofit organization or public agency, the owner was required to invest its 50 percent of the profits toward providing additional affordable housing.

The RTC introduced the recapture agreement after several purchasers immediately resold their properties and received significant profits. Because the RTC's AMV was substantially lower than the appraised value, after taking the property's anticipated income with restricted units into account, those profits were viewed as an unfair windfall. The recapture agreement helped the RTC satisfy its goal of increasing the stock of affordable housing by requiring sellers to reinvest profits into other affordable housing ventures.

### *Affordable Housing Advisory Board*

The Affordable Housing Advisory Board (AHAB), an advisory committee defined by the Federal Advisory Committee Act, *U.S. Code*, volume 5, appendix 2, J let. seq., was established by the Resolution Trust Corporation Completion Act to advise the Thrift Depositor Protection Oversight Board and the FDIC Board of Directors on policies and programs related to the provisions of affordable housing.[4] The RTC issued the AHAB's original charter on March 9, 1994, and the FDIC rechartered the board on February 26, 1996, after the RTC was shut down.

Members of the AHAB are the secretary of HUD, who serves as chairperson; the chairperson of the Thrift Depositor Protection Oversight Board (or the chairperson's delegate); the chairperson of the FDIC Board of Directors (or the chairperson's dele-

4. In 1991, RTCRRIA replaced the RTC Oversight Board with the Thrift Depositor Protection Oversight Board.

gate); four persons appointed by the secretary of HUD to represent the interests of individuals and organizations involved in using affordable housing programs; and two persons who were members of the former National Housing Advisory Board, which had provided advice to the RTC Oversight Board.

The Completion Act required the AHAB to meet four times annually, and more frequently if so requested by the FDIC Board of Directors. Meetings were open to the public and included testimony from experts in the field who had personal experience in purchasing affordable housing properties or wanted to make policy or procedural recommendations before the board. Meetings were held throughout the country, but primarily in areas where FDIC and RTC affordable housing assets were concentrated.

## The Cost of the RTC's Affordable Housing Disposition Program

The General Accounting Office's (GAO) audit of the RTC Affordable Housing Disposition Program in September 1994 attempted to identify the RTC's costs of administering the program compared with the sale of other RTC real estate. Several factors prevented both the GAO and RTC management from making conclusive statements regarding the costs of the program. Knowledge of the price at which the RTC could have sold the AHDP property in its regular disposition program, property holding costs, and the length of time to sell outside the AHDP were data that the RTC did not maintain, thereby preventing an accurate cost analysis of the program.

It is possible, however, to make one comparison between the two sets of real estate transactions. The ratio of sales price to appraised value of an eligible single-family property sold in the program was 75 percent, compared to 80 percent for an eligible property sold outside of the program. Similarly, the ratio of sales price to appraised value of an eligible multi-family property sold in the program was 70 percent, compared to 74 percent for eligible properties sold outside the program.[5] See table I.15-2 for a comparison of single-family and multi-family sales under AHDP.

Assuming the same percentages of appraised value could have been obtained for properties sold in the program as for those sold outside the program, then the RTC would have forgone approximately $92.8 million in collections through its use of an affordable housing program. Because eligible properties first had to unsuccessfully go through a marketing effort as an affordable housing property before they could be sold outside the program, the loss of income assumption may be reasonable and, if anything, conservative.

5. Multi-family total appraised value for "sold affordable" is a cumulative total from the program's inception and consequently includes assets sold before and after the AMV was used to set the purchase price (see RTC Program Components, Reduced Price). Data on 184 multi-family properties that had established AMVs show that the average AMV was 66.7 percent of the appraised value.

**Table I.15-2**

**RTC Sales of Properties Eligible for the Affordable Housing Disposition Program**

| | Single-Family | | Multi-Family | |
|---|---|---|---|---|
| | Affordable | Non-Affordable | Affordable | Non-Affordable |
| Number of Properties | 22,898 | 10,662 | 856 | 377 |
| Number of Units | 27,244 | 13,726 | 90,794 | 25,408 |
| Total Appraised Value | $878,455 | $342,660 | $1,429,751 | $401,485 |
| Total Sales Price | $659,033 | $272,360 | $1,005,831 | $297,123 |
| Sales Price/Appraised Value (%) | 75.0 | 79.5 | 70.4 | 74.0 |

Note: Conveyance sales (properties donated) are not included above.
*Source*: RTC quarterly auction reports.

The $92.8 million figure does not incorporate the added costs the RTC incurred by operating the AHDP. When considering the money that was spent on repairs to single-family properties (approximately $25 million), closing costs for single-family properties (approximately $19 million), forgiven application fees for multi-family seller financing (approximately $355 thousand), and the administrative costs of the TAAs and outreach programs, all of which were not used for other RTC asset sales, then the added cost to taxpayers from the program grows to more than $135 million.

## The FDIC Affordable Housing Program

The FDIC program was established by section 241 of FDICIA, which amended the Federal Deposit Insurance Act (FDI Act) of 1950, adding section 40, “FDIC affordable housing program.”[6] Because the FDIC is privately funded, the program was operational only to the extent that it received a federal appropriation. The Department of Veterans Affairs, HUD, and the Independent Agencies Appropriations Act of 1993 provided the AHP’s first year of funding. Because the AHP was the only aspect of the FDIC’s operations that

6. *U.S. Code*, volume 12, section 1831q(c)(1).

required a separate federal appropriation, it was, by design, administered and accounted for separately from all other sources of FDIC funding.

Aside from the section 40 provisions pertaining to the appropriated program, section 123 of FDICIA, "FDIC Property Disposition Standards," requires the FDIC to conduct its disposition activities in a manner that (1) maximizes present value return, (2) minimizes losses, (3) ensures adequate competition, (4) prohibits discrimination based on race, sex, or ethnic group in the consideration of offers, and (5) maximizes the preservation of the availability and affordability of residential real property for low- and moderate-income individuals. The final factor, which is related to providing opportunities for affordable housing, is separate and apart from the provisions governing the appropriated program.

*Background*

Although modeled after the RTC program, the FDIC Affordable Housing Program was much smaller in scope. With $5 million of appropriated funds for fiscal year 1993, $7 million for fiscal year 1994, and $15 million for fiscal year 1995 (later reduced to $3.7 million), the AHP provided credits or grants to 2,073 qualified buyers of affordable single-family properties and subsidized the sale of 533 units of affordable multi-family properties. The program included properties held by the FDIC in both its corporate and receivership capacities obtained from the Bank Insurance Fund, Savings Association Insurance Fund, and Federal Savings and Loan Insurance Corporation Resolution Fund institutions. (See table I.15-3.)

*Funding and Size of Program*

The major difference between the FDIC and RTC affordable housing programs was in the funding of the programs. The FDIC program was operative only insofar as congressionally appropriated funds, specifically earmarked for its program, were available to cover the administrative and property subsidy costs incurred by the program. In contrast, the RTC's program operated with general funds available to the RTC and was not dependent on a specific appropriation. See chapter 4, Evolution of the RTC's Resolution Process, for a discussion of the general difficulties encountered with the congressional funding of RTC activities.

During the first and second years of the AHP, the appropriated funds were not sufficient to allow the FDIC to discount all of the properties that would have been eligible for the program. For example, some of the multi-million-dollar apartment projects that could have been marketed through the program at the time would have resulted in discounts totaling hundreds of thousands of dollars. In response to that issue, the annual appropriation legislation allowed the FDIC to modify, at its sole discretion, the statutory requirements so that the available money could be put to the most efficient and beneficial use.

That discretion enabled the FDIC to concentrate its efforts on single-family properties. Also, the discretionary language allowed the FDIC to be more creative in the way it provided discounts, which led to the FDIC's providing credits or grants on properties in lieu of straight discounts. (See "Credits or Grants" later in this chapter.)

During fiscal year 1995, the FDIC appropriated program was significantly curtailed because of the congressional rescission of $11.3 million of the $15 million originally appropriated for that year. Since fiscal year 1995, the FDIC has maintained a limited nonappropriated program.

## Single-Family Program

The FDIC was dependent on congressional appropriations to fund its affordable housing programs. Because the appropriations were not sufficient to fund all the affordable housing properties it received, the FDIC concentrated the available money on single-family properties where the funding needs were modest. From 1993 to 1995, the FDIC sold 2,400 single-family units for a total sales price of $91.4 million, or 82.6 percent of the appraised value.

**Table I.15-3**

### FDIC Sales of Properties Eligible for the Affordable Housing Program

*($ in Thousands)*

| Year | Number of Properties Sold | | Number of Units Sold | | Appraised Value | | Sales Price | | Sales Price/ Appraised Value (%) | |
|---|---|---|---|---|---|---|---|---|---|---|
| | Single-Family | Multi-Family | Single-Family | Multi-Family | Single-Family | Multi-Family | Single-Family | Multi-Family | Single-Family | Multi-Family |
| 1993 | 980 | 1 | 1,124 | 208 | $49,440 | $1,900 | $41,566 | $650 | 84.1 | 34.2 |
| 1994 | 681 | 7 | 808 | 228 | 37,381 | 3,299 | 30,920 | 1,223 | 82.7 | 37.1 |
| 1995 | 412 | 10 | 468 | 97 | 23,831 | 1,852 | 18,934 | 1,701 | 79.5 | 91.8 |
| **Totals/ Averages** | **2,073** | **18** | **2,400** | **533** | **$110,652** | **$7,051** | **$91,420** | **$3,574*** | **82.6** | **50.7** |

* The difference between the appraised value and the sales price is the appropriated subsidy.

*Source*: FDIC quarterly auction reports.

*Property Eligibility*

In the AHP, eligible single-family properties included residential properties with appraised values less than or equal to the FHA mortgage loan limits for particular areas, and they were subject to maximum statutory caps as shown below:

- One-family units/condos $101,250
- Two-family units $114,000
- Three-family units $138,000
- Four-family units $160,000

Upon acquiring marketable title to eligible properties and procuring the services of a listing broker, the FDIC restricted the sale of those eligible properties to low- and moderate-income buyers for the first 180 days. Following that period, if the properties remained unsold, they were made available to other interested buyers. Of the 4,121 properties available for sale through the AHP, the FDIC sold 58 percent to qualified purchasers.

*Notifications Through Clearinghouses*

While conforming with FDICIA, the FDIC notified the appropriate state housing finance agencies and the FHLBs concerning the availability of eligible properties so that those clearinghouses could disseminate property information to prospective purchasers.[7] Also, recognizing that some properties might ultimately sell for less than their appraised value, a number of properties with appraised values exceeding the FHA mortgage loan limits (or statutory caps) were also included on the FDIC's list of available properties.

*Qualified Purchasers*

The FDIC defined a qualified purchaser as a household with an adjusted income of less than 115 percent of the median income for the area in which the property was located, indexed by the size of the household. Under the FDIC definition for the same geographic area, a household composed of five people would have a higher income qualification threshold than a household composed of two people. To verify qualified purchasers, the FDIC used a certification process and required the submission of an income qualification worksheet and supporting documentation.

7. *U.S.Code*, volume 12, section 1831q(c)(1).

### *Credits or Grants*

The FDIC made credits or grants available to qualified buyers for an aggregate amount of up to 10 percent of the purchase price. Those subsidies, paid for entirely with congressionally appropriated funds, were used in one or more of the following ways:

- As down payment assistance;
- For buying down mortgage points;
- For closing costs;
- For buyer counseling; or
- As direct discounts on purchases.

The subsidies were available during fiscal year 1993 until June 1994, when the FDIC and RTC developed a buyer's assistance package for a joint sales initiative. They adopted the assistance package in the final months of fiscal year 1994 as the standard credits and grants approach for the duration of the FDIC and RTC programs.

From the assistance package, qualified buyers could receive the greater of 3 percent of the gross sales price or $1,500 toward customary closing costs. For third-party-financed sales, buyers received an additional 7 percent of the gross sales price toward financing or closing-related costs for a total of 10 percent in buyer assistance. Seller-financed sales provided some alternative financing benefits designed to assist the purchaser. (The RTC was required by law to provide information regarding the availability of seller financing to minority- and women-owned businesses and minority-sponsored nonprofit organizations.)

### *Restrictions*

Purchasers were subject to the same one-year occupancy requirement that the RTC enforced. If a property was resold within one year from the settlement date, the purchaser was required to remit 75 percent of any profit to the FDIC.

### *Existing Tenants*

The FDIC offered existing tenants the opportunity to purchase their residences, whether or not they were income-qualified, before offering them through the AHP marketing program. Only income-qualified existing tenants were eligible, however, for the program's credits or grants.

*Auctions*

The FDIC conducted seven affordable housing auctions. Each of those events involved the active participation of local lenders, who provided financing for some of the sales. Participating banks viewed their participation in those auctions as one facet of their compliance with the Community Reinvestment Act; it allowed them an opportunity to meet the credit needs and help provide housing to low- and moderate-income households in their community. The FDIC expended a great deal of effort and planning in conducting those auctions. It gave particular attention to ensuring that all properties were habitable and had marketable title. Also, the FDIC conducted buyer awareness seminars for participants to ensure that each prospective purchaser understood the house-buying process and the rules of the auction.

*Donations*

Occasionally, the FDIC acquired properties of nominal value that failed to sell under established marketing procedures. When underlying holding and marketing costs were taken into consideration, potential future benefits to the FDIC were further diminished. In those instances, the FDIC often transferred title or otherwise donated properties, at no cost, to a nonprofit organization or public agency, providing it demonstrated a commitment that the properties would be used for the public good.

The properties owned by the FDIC that qualified for conveyance included single-family and multi-family affordable housing, homeless shelters, transitional housing, day care facilities for children of low- and moderate-income families, open urban spaces, and assets used for nonprofit public purposes. When appropriate, the FDIC asked the acquiring party to enter into a LURA to ensure the continued use of the property for the public good. See exhibits I.15-3 and I.15-4 for comments regarding donated properties.

## Multi-Family Program

In response to a Completion Act requirement to unify the FDIC and RTC programs, the FDIC and RTC ratified a plan to merge the programs when feasible. That agreement, which was approved on April 22, 1994, provided a framework for the FDIC and the RTC to coordinate their efforts and take advantage of the RTC's multi-family marketing capabilities. The FDIC and RTC marketed certain FDIC owned multi-family properties under the provisions of the RTC direct sale program. Marketing of the assets was the joint responsibility of the FDIC and RTC, while management responsibility for the properties remained with the FDIC. The joint effort was accomplished within the limits of the appropriated funds available to the FDIC's AHP.

Because of funding limitations, the FDIC conducted few multi-family sales through the AHP. During fiscal years 1993 and 1994, it sold only two multi-family properties on a subsidized basis, while fiscal year 1994 brought just one subsidized sale, which was conducted in cooperation with the RTC and the RTC's TAAs. During 1994, because the transactions were economically feasible without the use of a subsidy, the FDIC conducted six additional sales without the use of the appropriated funds. All nine properties sold in 1993 and 1994 included units set aside for affordable housing. In fiscal year 1995, the FDIC conducted 10 additional subsidized sales. See exhibit I.15-5 for comments regarding a Multi-Family Program sale.

*Public, Private, and Nonprofit Cooperation*

The FDIC program made extensive use of public, private, and nonprofit sector partners to leverage its limited resources. Involvement of those parties was evident in FDIC's auctions, which included the participation by lenders, the Federal National Mortgage Association (Fannie Mae), and community groups. Another example of such cooperation involved the Massachusetts Bankers Association and some of its affiliate members who facilitated a donation through the Make-A-Wish Foundation, conveying an FDIC affordable property to the family of a terminally ill child who had contracted the AIDS virus. The child's wish was for his family to finally own a home.

In early 1994, in New England, the FDIC initiated a pilot program of neighborhood revitalization and reinvestment. The program studied an urban area that had experienced an economic downturn. Part of the effect of the downturn was the number of foreclosed properties in that area owned by various institutional investors. As a result of the study, the FDIC implemented initiatives such as a program in Holyoke,

## Donations: How They Work to Provide Affordable Housing

### Exhibit I.15-3

The Midwest Service Center donated a six-unit apartment building in Kansas City, Missouri, under the FDIC's Affordable Housing Program. The recipient was Mennonite Housing, a nonprofit organization established in 1978 for the purpose of rehabilitating property to provide transitional housing to the homeless and permanent housing for very-low-income senior citizens. This was the second property donation arranged by the Midwest Service Center.

*Source: FDIC HomeSteader*, 3rd quarter, 1994.

### Exhibit I.15-4

On August 1, 1994, the FDIC's Southwest Service Center donated 18 distressed properties and three vacant lots located in McKinney, Texas, to the Community Housing Fund, a nonprofit organization. The effort to accomplish these donations was spearheaded by Mary Williford of the Affordable Housing Program department of the SWSC and Account Officer Marilyn Caldwell. The Community Housing Fund rehabilitates and builds homes to meet the needs of the low- and moderate-income families throughout the United States.

Massachusetts, in which an effective partnership was forged between the FDIC management and the town's debtors, municipal officials, other agencies, and bankers. They worked together to facilitate the most cost-effective conveyance of collateral interests in nominal value, multi-unit properties to the control of municipal authorities for disposition and development.

In Connecticut, the pilot program was instrumental in holding a statewide study that culminated in legislation to charter revitalization zones and roll back various regulatory prohibitions to community development. The initiative was recognized by the White House, which, in 1995, entered into a national partnership with the neighborhood revitalization zone effort in Connecticut. The pilot later was adopted throughout the FDIC.

## The Nonsubsidized FDIC Affordable Housing Program

The FDIC Affordable Housing Program under section 40 technically terminated on September 30, 1995, because Congress did not appropriate funds to support the AHP in fiscal 1996. However, as noted earlier, the FDIC has another statutory requirement regarding affordable housing in section 123 of FDICIA, which regulates the FDIC's disposition of assets when acting in its corporate, receivership, or conservatorship capacities. Section 123 directs the FDIC to conduct its asset disposition operations in a manner guided by five factors, which include maximizing the preservation of the availability and affordability of residential real property for low- and moderate-income individuals.[8] Through section 123, The FDIC implemented an affordable housing program that could operate without an annual congressional appropriation, yet be consistent with FDIC's overall statutory responsibilities.

## Key Dates

From the time FIRREA first established the RTC and FDIC affordable housing programs, many changes and additions altered the programs. See exhibit I.15-6 for a summary of affordable housing activity by key dates.

8. Section 40(m)(4) of the Federal Deposit Insurance Act, *U.S. Code*, volume 12, section 1831q(m)(4), provided that the FDIC would not be liable to any depositor, creditor, or shareholder because the disposition of properties in accordance with the requirements of section 40 affected the amount of return on such properties. The statutory protection available under section 40 is not available for the non-appropriated program.

## Conclusion

Although some significant resolution and disposition policies of the RTC were severely criticized, the Affordable Housing Disposition Program was widely viewed as an important redeeming feature of the government's handling of the savings and loan crisis. Congress implicitly stated that if taxpayers had to pay for the savings and loan cleanup, then something positive, in this case a greater supply of low-income housing, should be part of the package. During approximately five years of operation, the RTC accomplished its mission in the area of affordable housing by providing 109,141 units to very-low-, low-, and moderate-income households.

The success of the RTC's AHDP, however, came at a high price, although the total costs that resulted from implementing the program may never be known. As indicated in the 1994 GAO study, the RTC had not maintained a database for recording all the costs associated with the AHDP. For example, no means exists for estimating costs for the effects of reduced pricing caused by the restrictions for targeted purchasers and the effect on value associated with the LURAs. The conservative estimate in this chapter of $135 million in added costs, compared to what disposition of assets would have cost without an affordable housing program, does not include estimates for some of the unrecorded AHDP costs. The added costs of RTC's AHDP are not high when viewed in relation to the total costs of the RTC as a whole, but may well be considered significant when viewed within the smaller confines of the Affordable Housing Disposition Program itself. The RTC sold more than $2 billion in affordable housing units, compared to the $402.6 billion in total assets that the RTC managed and sold.

As part of FDICIA, Congress appropriated funds for the FDIC to implement a limited Affordable Housing Program. Initially, it appropriated $27 million for a three-year period so that the FDIC AHP would not draw on deposit insurance funds. During

**Exhibit I.15-5**

### Bobbie White House: Serving Those in Need

The FDIC completed the sale of the property known as the Bobbie White House, located in Boston, Massachusetts, to the Citywide Land Trust for conversion into housing for people with substance abuse problems or AIDS. The Bobbie White House is a part of Victory Programs, Inc., a Boston-based multi-service agency providing individualized treatment programs to people recovering from alcohol and drug addiction, particularly those with medical and psychological problems including AIDS and HIV. The residence is a wheelchair-accessible brick row house containing 13 studio apartments located in Boston's South End.

*Source: FDIC HomeSteader,* 3rd quarter, 1994.

fiscal year 1995, the appropriation was reduced by $11.3 million, and the program was effectively terminated. Although the overall size of the FDIC program was far smaller than the RTC program, the FDIC used appropriated funds to accomplish the objective set before it: to provide affordable housing to low-income families. The FDIC AHP provided housing for 2,933 lower-income households.

During the financial crisis of the 1980s and early 1990s, the RTC and FDIC were presented with an unprecedented volume of residential real estate for disposition. Both agencies took that unique opportunity to work diligently within regulatory guidelines and restraints to maximize the number of properties that could be placed into the hands of thousands of low-income households.

**Exhibit I.15-6**

## Affordable Housing Key Dates

| | |
|---|---|
| August 1989 | FIRREA required that the RTC develop a program for selling residential properties to provide affordable housing opportunities. In response to that provision, the RTC established the Affordable Housing Disposition Program. |
| January 1990 | The RTC Oversight Board gave the RTC authority to implement a 100-unit pilot program of single-family properties under the AHDP. Broad guidelines for the program were established. |
| March 1990 | The RTC Oversight Board issued a policy authorizing the RTC to use up to $6 million to purchase mortgage revenue bond commitments with state and local housing agencies to finance single-family properties under the AHDP. Over the following six months, the RTC negotiated mortgage revenue bond commitments in 12 states for more than $200 million. The largest commitment was with the state of Texas. Those bond issues enabled AHDP purchasers to obtain below-market-rate financing to purchase single-family properties. |
| July 1990 | The RTC Oversight Board issued guidelines for the conveyance of properties with no reasonable recovery value. Over the course of the RTC's life, more than 1,000 properties with no reasonable recovery value were made available to nonprofit and public agencies for public usage. Conveyance uses ranged from homeless shelters in inner cities to bungalows in the Rio Grande Valley made available to migrant workers for homeownership. No-cost conveyances in Ft. Worth, Texas, to the Liberation Community were highlighted on the ABC television network national evening news on July 17, 1991. |
| August 1990 | The AHDP Final Rule was published in the *Federal Register*. The issuance of that rule marked the beginning of the AHDP. The RTC Texas office placed 200 multi-family properties for sale under the AHDP. |
| October 1990 | The RTC Oversight Board gave the RTC the authority to sell AHDP properties at 80 percent of appraised value (as opposed to the FIRREA mandated 95 percent of appraised value). |

Exhibit I.15-6

## Affordable Housing Key Dates
***Continued***

| | |
|---|---|
| February 1991 | The RTC issued seller financing guidelines authorizing low-down-payment financing for single-family properties sold under the AHDP. Multi-family properties could be financed under the AHDP with 15 percent down payments. The RTC held a national training seminar in Washington, D.C., in November 1991 and, over the next six months, held training events in 13 RTC field offices. |
| March 1991 | Congress authorized the sale of single-family properties in the AHDP in conservatorships. Congress also authorized the sale of single-family properties without regard to a minimum sale price. (Previously, 80 percent of appraised value had to be achieved.) |
| June 1991 | The RTC Oversight Board approved the RTC's proposal to provide low-down-payment seller financing to nonprofit organizations and public agencies under the program. |
| December 1991 | FDICIA implemented the FDIC Affordable Housing Program subject to receiving a congressional appropriation. |
| December 1991 | The RTC issued its first repair policy providing that up to 25 percent of a property's sale price (or $5,000, whichever is greater) could be spent on rehabilitation to bring the property up to code to meet lender-required repairs. |
| December 1991 | Congress revised the AHDP to (1) permit direct negotiated sales of multi-family properties with nonprofit organizations and public agencies, and (2) impose a one-year owner occupancy requirement for purchasers under the AHDP. The National Housing Advisory Board was created as a forum for providing public input into the AHDP sales process. |
| May 1992 | The first indictment for defrauding the AHDP was handed down to a broker who helped straw buyers (otherwise eligible buyers who purchased property on behalf of non-eligible buyers) purchase under the program. |
| May 1992 | The AHDP issued a revised rule for carrying out the provisions of the 1991 funding bill. |

**Exhibit I.15-6**

## Affordable Housing Key Dates
***Continued***

| | |
|---|---|
| May 1992 | The RTC initiated its multi-family direct sale program implementing the program authorized in the 1991 funding bill. |
| July 1992 | The RTC hired four firms to perform underwriting on multi-family seller financed transactions. |
| October 1992 | The FDIC received its first appropriation of $5 million to operate its program during fiscal year 1993. |
| October 1992 | The Housing Opportunity Hotline pilot was initiated in Texas with the lower-priced single-family foreclosed properties of eight federal agencies. That pilot pivoted off of the RTC's successful model of using state housing agencies and Federal Home Loan Banks to serve as clearinghouses to provide interested purchasers with single-family property lists. The Completion Act expanded the pilot to all 12 FHLBs. |
| October 1992 | A $100 million financing commitment was made by Fannie Mae to purchase mortgages on multi-family properties sold under the AHDP. |
| January 1993 | The RTC issued its *Monitoring and Compliance Manual* for monitoring the long-term affordability of the AHDP. The RTC released a comprehensive computer package for monitoring those properties. During 1992 and 1993, the RTC held more than a dozen training events for its state monitoring agencies and homeowners throughout the country. |
| February 1993 | The RTC was authorized to broaden seller financing policy. |
| October 1993 | The FDIC received a $7 million congressional appropriation for fiscal year 1994. |
| December 1993 | The Completion Act directed that the RTC Affordable Housing Disposition Program and the FDIC Affordable Housing Program be unified and that the program take into consideration the experience of the RTC. Unification was to occur in a manner that best achieved an effective and comprehensive affordable housing program management structure. |

**Exhibit I.15-6**

## Affordable Housing Key Dates
***Continued***

| | |
|---|---|
| October 1994 | The FDIC received a $15 million congressional appropriation for fiscal year 1995. |
| November 1994 | The RTC implemented certain provisions of the Completion Act, which required that preferences be given to homeless providers who offered to purchase commercial properties and who purchased certain real estate owned for homeless housing and shelters. The RTC also established a preference for homeless providers who purchased certain commercial real estate owned for offices and administrative purposes. RTC's marketing literature was required to include narrative notifying potential buyers of the applicability of those provisions. The RTC established additional procedures to regularly notify homeless provider organizations of the current RTC inventory. |
| December 1994 | According to the RTC Final Rule, section 1609.12, published in the *Federal Register*, October 19, 1994, the RTC had to list all of its single-family and condominium properties and multi-family properties with clearinghouses. The RTC also formally implemented its direct sale program. It established two 30-day marketing periods for multi-family properties offered under the direct sale program—an initial marketing period for public agencies and another for nonprofit organizations. Later, the RTC combined those two marketing periods into one 45-day period in which it marketed the property simultaneously to both public agencies and nonprofit organizations. The RTC was required by the Completion Act to provide information regarding the availability of seller financing to minority- and women-owned businesses and minority-sponsored nonprofit organizations. |
| August 1995 | Congress rescinded $11.3 million of the FDIC AHP's $15 million fiscal year 1995 appropriation, effectively terminating the program. |

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More than $42 billion (almost 22 percent of the mortgages and more than 10 percent of all of the RTC's assets) were sold through the RTC's securitization program.